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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/573,433
Filing Date: March 24, 2006
Appellant(s): OBERHOMBURG, MARTIN

James E. Howard
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10-26-2010 appealing from the Office action mailed 4-30-2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

11-20

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

2005/0000958	Stockley	1-2005
6967314	Sauter et al	11-2005
6255630	Barnes et al	7-2001
4650970	Ohouchi	3-1987

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 11, 15, 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Sauter et al 6,967,314. Sauter et al teach a cooking device 4 having a display 60, a low power heating element and a high output heating element, see abstract, with a controller 58 which controls the heat output and the display, as claimed. Note that the display is construed to display a set of symbols, as broadly claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11,15,16,21,23,25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauter, as above, in view of either Barnes et al 6,255,630 or Ohouchi 4,650,970. Sauter as described above teaches the claimed subject matter. The patent to Barnes et al and Ohouchi have been applied for clearly evidencing that multiple displays with multiple operating modes in a cooking device can have differing symbols on the displays. Note that the claims are silent as to just what symbols are used. For instance a number 4 on a display is a different symbol from number 7 on the display. Power level is different from a degrees symbol. Barnes teaches in figure 2 multiple

displays 100-125 for displaying power level, mode, temperature and other symbols. Ohouchi shows in figure 2 multiple displays, 12—bar-graph type display , 11- time or digit display. In view of these teachings it would have been obvious to modify the Sauter et al system with multiple symbol displays, as broadly claimed. With respect to new claims 21-25, Sauter et al in view of either Barnes et al or Ohouchi , the same rejection of claims 11,15 and 16 pertains to these claims since multiple displays with multiple operating modes in a cooking device can have differing symbols, is not novel, since the claims are silent as to just what type of symbols are used. For instance numeric symbols are different from degrees symbols. .

Claims 12-14, 17-20,22,24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauter et al 6,967,314 in view of Stockley 2005/0000958. Sauter et al teach the claimed cooking controller except for defining the display as a seven segment display. It is submitted that the artisan would have found it obvious to use a seven digit or any multi-digit display for the display, depending on the end use of the device and the type of display desired. In addition, the patent to Stockley is applied for clearly teaching that a seven segment display is conventional in a cooking device and effects an efficient display of cooking data and sensed parameters. See paragraph 0032 in Stockley which teaches a seven segment display to display the cooking progress. In view of this teaching it would have been obvious to modify the Sauter et al system to use a display having seven segments, since such display has been shown effective to display cooking information, as broadly defined. As per claim 3 use of numerical

symbols is set forth in Sauter et al and if modified as set forth above it is inherent that use of numerical display numerals is obvious for the artisan. Use of three transverse segments as per claim 14 is a routine matter of choice having no patentable bearing on the claimed device. As per claim 18 use of the controller to control a gas system is an obvious choice, the controller in Sauter et al as modified, capable of controlling wither a gas or electric heater.

Claims 12-14,17-2022,24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauter et al in view of Barnes et al or Ohouchi as applied to claims 11,15,16 above, and further in view of Stockley 2005/0000958. Sauter as modified above, teaches the claimed subject matter except for showing the particular 7 digit display . Stockley teaches as defined above that such displays are conventional and efficient in displaying cooking information and in view of this teaching it would have been obvious to modify the Sauter et al system further to use this particular display schemes.

(10) Response to Argument

Page 4 in the Brief advances that the patent to Sauter does not disclose an indication, display, that indicates that claim 1 defines , "indicates the set heating outputs in a first operating mode with symbols from a first set of symbol, wherein the indicating device indicates the set heating output in the second operating mode with

symbols from a second set of symbols of a different type of symbolism compared to the first set of symbols".

Appellants have failed to disclose just what a different symbol is or just what a "different type of symbolism" means. Heating ranges conventionally display time, temperature, humidity and other control parameters. Time is displayed. Temperature is displayed. "Done" is displayed to indicate that the food is cooked. "Ready" is displayed to indicate ready. The claims at bar in no way indicate just what the "different symbolism" is. A temperature indication is a different symbolism from a time indication. A power level indication is a different symbolism from both time and temperature indications. Sauter teaches in column3, lines 35, 56, column 4 lines 10 and 21 that the display, displays time temperature and power level chosen. The Examiner submits that these different parameters that are displayed are different symbols, barring Appellant's failure to indicate just how these symbols displayed are different from one another. The claims at bar in no way indicate the difference between the symbols. If Appellant's are claiming different symbols, then Appellant's are invited to include this difference in the claims at bar. The Examiner submits that time, temperature and power levels of use do comprise different symbols. "78 degrees" is clearly different from "power level "3". "78 degrees is clearly different from "2 minutes", time. If Appellants' are seeking patent protection for a display that indicates different symbols, then Appellant's claims should indicate just how one symbol is different from another. The claims at bar just define, "a symbol that is different from another symbol". No mention is made of just what the

difference is. Time is a different symbol than temperature level and power level is clearly different from both time and temperature.

With respect to claims 11,15 and 16, Sauter et al teach the claimed cooking controller except for defining the display as a seven segment display. It is submitted that the artisan would have found it obvious to use a seven digit or any multi-digit display for the display, depending on the end use of the device and the type of display desired. In addition, the patent to Stockley is applied for clearly teaching that a seven segment display is conventional in a cooking device and effects an efficient display of cooking data and sensed parameters. See paragraph 0032 in Stockley which teaches a seven segment display to display the cooking progress. In view of this teaching it would have been obvious to modify the Sauter et al system to use a display having seven segments, since such display has been shown effective to display cooking information, as broadly defined. As per claim 3 use of numerical symbols is set forth in Sauter et al and if modified as set forth above it is inherent that use of numerical display numerals is obvious for the artisan. Use of three transverse segments as per claim 14 is a routine matter of choice having no patentable bearing on the claimed device. As per claim 18 use of the controller to control a gas system is an obvious choice, the controller in Sauter et al as modified, capable of controlling wither a gas or electric heater. Appellant's remarks advance on pages 6-7 that Barnes et al and Ohuchi do not teach multiple displays with multiple operating modes. Barnes et al in figure 2 clearly teach

display 44 that indicates different symbols, column 3 lines 2—26 time display. Line 33 indicates temperature display. Lines 38-39 indicate zone displays. Lines 45-67 display, displays 5-7 that indicate further display information. Ohouchi clearly teaches multiple displays, time, power level and bar graph display, clearly "different symbolism".

With respect to claims 12-14, 17-20. Stockley clearly teaches use of 7-segment displays as conventional and obvious to the artisan.

The independent claims have been amended to recite that the second set of symbols is of a type different from the first set of symbols. For the following reasons, Sauter et al as modified teach this broadly claimed display system for an oven. The claim are silent as to just what a different type of symbol is. It is submitted that time display is a different type of symbolism than temperature display. In addition, the Barnes system teaches four displays, see column 3. The first display is time data, the second display is temperature data while third display 103 defines mode, such display merely lights that indicate the mode, and clearly this is a different symbol than the first and second displays, 100 and 102 respectively. A fourth display depicts lighted bars, 105, that display heating zones activated including the oven zones, broil and bake. A fifth display 113 can indicate letters such as "BAKE" in the display, clearly different from the numerical digits in the displays 100 and 102. Applicants remarks advance that the mode is clearly portrayed with the instant display, however, Barnes does indicate the mode also.

With respect to the Ohouchi patent, figure 2 clearly shows display 12 with bar graph indicator lights, versus the display 11 having numerical digits. These two types of symbols are separate and distinct and satisfy the claimed subject matter. It is submitted that one of ordinary skill in the art would find proper motivation in these two patent to modify the Sauter et al system to use different symbols in multiple displays, such as numerical digits, text digits, bar graph lights or mode lights, if desired, dependent on the whim of the operator. Note that in Barnes the displays are energized after an initial heating period, as per the dependent claims. Applicant's remarks on page 5 set forth that claim 14 defines transverse segments, not taught. However, the bar graph indicators are construed as transverse barring further definition of what transverse is. Note that it is not known just what a transverse segment is as per claim 14. As per claim 15, broil could be displayed followed by bake, i.e., high heat followed by lower heat. As per claim 16 the first heating mode can be continuous, as set forth above. As per claim 19 if the second mode was less heat than the first mode, the gas supplied in the second mode would obviously be less than in the first mode. Use of flashing as per claim 20 is common to digital oven displays, most microwave ovens having a flashing feature upon ending of one mode, or indicating finish of cooking. for these reasons the claimed subject matter is obvious to one of ordinary skill in the art. Note the discussion of claims 21-25 in the above rejections.

For the above reasons the Examiner submits that different symbols are clearly taught in the prior art applied, barring further description of just what a "different

symbol", comprises. The prior art clearly teaches multiple displays, the parameters displayed, different, hence the symbols displays, different.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Mark H Paschall/

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/Henry Yuen/

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/TU HOANG/

SPE of Art Unit 3742